

CCRB INVESTIGATIVE RECOMMENDATION

| | | | | | |
|--|--|---------------------------|---|------------------------------------|---------------------------------|
| Investigator: Filip Woroniecki | Team: Squad #7 | CCRB Case #: 201609552 | <input type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Thursday, 10/27/2016 6:30 PM | Location of Incident: Inside § 87(2)(b) | Precinct: 79 | 18 Mo. SOL 4/27/2018 | EO SOL 4/27/2018 | |
| Date/Time CV Reported Wed, 11/16/2016 1:57 PM | CV Reported At: CCRB | How CV Reported: Mail | Date/Time Received at CCRB Wed, 11/16/2016 1:57 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------------|--------------|
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |

| Witness(es) | Home Address |
|-------------|--------------|
| § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) |

| Subject Officer(s) | Shield | TaxID | Command |
|-----------------------|--------|--------|---------|
| 1. DT3 Keith Mcdowell | 01381 | 935280 | NARCBBN |
| 2. SGT Michael Weber | 04578 | 929343 | NARCBBN |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|----------------------------|-----------|--------|----------|
| 1. POM Thaddeus Grandstaff | 15264 | 951784 | NARCBBN |

| Officer(s) | Allegation | Investigator Recommendation |
|----------------------|--|-----------------------------|
| A.SGT Michael Weber | Abuse: Sergeant Michael Weber entered § 87(2)(b) § 87(2)(b). | § 87(2)(b) |
| B.DT3 Keith Mcdowell | Abuse: Detective Keith Mcdowell entered § 87(2)(b) § 87(2)(b). | § 87(2)(b) |

Case Summary

On November 16, 2016, § 87(2)(b) filed this complaint with the CCRB via mail. On October 27, 2016, at approximately 6:30 p.m., Sgt. Michael Weber, PO Thaddeus Grandstaff and Det. Keith McDowell from Narcotics Borough Brooklyn North entered § 87(2)(b).

§ 87(2)(b) (Allegation A and B). § 87(2)(b) who was at the location with his mother, § 87(2)(b) and his sister, § 87(2)(b) alleged that Sgt. Weber introduced himself as a parole officer prior to entering the apartment. § 87(2)(b) who at the time believed Sgt. Weber to be a parole officer, allowed him and the two officers to enter the apartment. § 87(2)(b) § 87(2)(b)

The investigation did not obtain any video footage of the incident.

Mediation, Civil and Criminal Histories

- Due to § 87(2)(b)'s arrest, this case was unsuitable for mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b) (Board Review 01).
- As of February 16, 2017, there was no Notice of Claim filed for this complaint (Board Review 02).

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (Board Review 03).
- Sgt. Weber has been a member of the service for 15 years. He has been the subject of 23 allegations, stemming from 13 complaints, none of which were substantiated § 87(2)(g) § 87(2)(g)
- Det. McDowell has been a member of the service for 12 years. He has been the subject of 22 allegations, stemming from 16 complaints, none of which were substantiated § 87(2)(g) § 87(2)(g)

Potential Issues

- § 87(2)(b) was not interviewed at the CCRB because, as described by § 87(2)(b) she did not observe the entry into the apartment. In her phone statement, § 87(2)(b) explained that § 87(2)(b) was inside another room within the apartment when § 87(2)(b) interacted with the officers at the door.
- § 87(2)(b) stated that three officers entered his apartment. Sgt. Weber was the supervisor on scene who approved going to the location and Det. McDowell was the investigator on § 87(2)(b)'s case. PO Grandstaff did not interact with § 87(2)(b) and did not perform any crucial police actions during the incident. § 87(2)(g) § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Findings and Recommendations

Allegation A– Abuse of Authority: Sergeant Michael Weber entered § 87(2)(b)

§ 87(2)(b):

Allegation C– Abuse of Authority: Detective Keith McDowell entered § 87(2)(b)

§ 87(2)(b):

It is undisputed that on October 27, 2016, at approximately 6:30 p.m., Sgt. Weber, PO Grandstaff and Det. McDowell entered § 87(2)(b).

§ 87(2)(b) provided a phone statement on November 25, 2016, and a sworn statement on November 28, 2016. § 87(2)(b) alleged that he received a text message from § 87(2)(b) his parole officer, which stated that § 87(2)(b) will be his new parole officer. § 87(2)(b) contacted § 87(2)(b) via phone and was informed that § 87(2)(b) would visit § 87(2)(b) at his home. On the same day, at approximately 6:30 p.m., § 87(2)(b) heard a knock on his apartment door. As he approached the door and looked through the peephole, he observed an individual, identified via the investigation as Sgt. Weber.

According to § 87(2)(b)'s phone statement, Sgt. Weber told him that he worked for “parole” and that his name was § 87(2)(b). Sgt. Weber, along with PO Grandstaff and Det. McDowell, entered the apartment as soon as § 87(2)(b) opened the door. § 87(2)(b) did not give them verbal consent to enter.

In his sworn statement, § 87(2)(b) presented a different account of events. During their interaction at the door, § 87(2)(b) asked Sgt. Weber if he was § 87(2)(b) to which Sgt. Weber replied “yes.” § 87(2)(b) affirmed in the belief that he just interacted with his new parole officer, opened the door and moved out of the way. He pointed his hand inward, toward the kitchen, and told Sgt. Weber “this way.” Sgt. Weber, PO Grandstaff and Det. McDowell entered the apartment (Board Review 06).

§ 87(2)(b) provided a phone statement on December 2, 2016. She stated that § 87(2)(b) approached the door, looked through the peep hole and told her that it was his “new PO.” He then slightly opened the door and asked Sgt. Weber if he was his “new PO” to which he replied, “yes.” § 87(2)(b) opened the door, motioned with his hand inward and told the officers to come in (Board Review 07).

§ 87(2)(b) provided a phone statement on December 16, 2016. She observed § 87(2)(b) approach and slightly open the door. Once the door was opened, § 87(2)(b) observed Sgt. Weber standing in the hallway. § 87(2)(b) asked him, “Are you my new parole officer?” to which Sgt. Weber responded, “yes.” § 87(2)(b) opened the door all the way and moved aside to let them in (Board Review 08).

Det. McDowell stated that it was his decision to go to § 87(2)(b) in order to arrest § 87(2)(b). Det. McDowell specified that there were no warrants issued for § 87(2)(b) or the address where he resided. Det. McDowell along with Sgt. Weber knocked on the door while PO Grandstaff remained in their proximity. When § 87(2)(b) opened the door, Sgt. Weber introduced himself by name and rank and asked if they could come in. § 87(2)(b) responded, “Sure” and stepped aside. Sgt. Weber, Det. McDowell and PO Grandstaff all entered the apartment. None of the officers introduced themselves as parole officers or stated that they were § 87(2)(b). Similarly, § 87(2)(b) did not ask any of the officers if they worked for parole or if their name was § 87(2)(b) (Board Review 09).

Sgt. Weber explained that it was his decision to go to § 87(2)(b) to arrest § 87(2)(b). Sgt. Weber did not remember who opened the door or what the

conversation at the door was, but recalled that he was given consent to enter the apartment. Later in the interview, Sgt. Weber explained that both § 87(2)(b) and § 87(2)(b) were at the door and they both told him to “come in.” He did not remember if § 87(2)(b) gestured for him to come inside. Sgt. Weber denied that any officer introduced themselves as parole officers and § 87(2)(b) never asked any of them if they were § 87(2)(b) or “Parole Officer Ortiz.” Sgt. Weber confirmed that he was the only officer who spoke with § 87(2)(b) at the door (Board Review 10).

PO Grandstaff stated that Sgt. Weber knocked on the front door and stated, “Police” which he repeated once again when the door opened. He did not remember if Sgt. Weber stated his name and rank to § 87(2)(b) when he opened the door. § 87(2)(b) did not ask him or another officer if they were parole officers. § 87(2)(b) did not ask if they were § 87(2)(b) or “Parole Officer Ortiz” and none of the officers introduced themselves as such. He did not hear any of the officers ask § 87(2)(b) for consent to enter the apartment, but stated that § 87(2)(b) opened the door all the way and backed out of the frame. PO Grandstaff interpreted this as an invitation inside (Board Review 11).

A warrantless entry into a premise by police officers is considered unreasonable and therefore unconstitutional, unless specific exceptions to the warrant requirement are applicable. One of the major exceptions to the warrant requirement is voluntary consent. Voluntary consent has to arrive from one’s free will and cannot be coerced. People v. Hodge, 44 N.Y.2d 533 (1978) (Board Review 12). A ruse or use of a deceptive technique by a police officer could also undermine the validity of consent. For instance, if police officers fail to identify themselves as such, and create a situation in which their deceptive statements establish the exercise of police authority to which a person would ordinarily object, the consent will not be voluntary. People v. Matta, 428 N.Y.S.2d 491 (2nd Dept. - 1980); People v. Tarisa, 50 N.Y.2d 1 (1980) (Board Review 13).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted].

Squad: 7

| | | | |
|---------------|-----------------|-------------------------|-------------------|
| Investigator: | _____ | <u>FILIP WORONIECKI</u> | <u>02/17/2017</u> |
| | Signature | Print | Date |
| Squad Leader: | _____ | _____ | _____ |
| | Title/Signature | Print | Date |
| Reviewer: | _____ | _____ | _____ |
| | Title/Signature | Print | Date |